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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,519	10/14/2005	Roland Welter	588.1042	2104
23280	7590	12/11/2007		
DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018			EXAMINER LEWIS, TISHA D	
			ART UNIT 3681	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/521,519

Applicant(s)

WELTER ET AL.

Examiner

TISHA D. LEWIS

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-33 is/are pending in the application.
- 4a) Of the above claim(s) 26-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 19-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

The following is a first action on the merits of application serial no. 10/521,519  
filed October 14, 2005.

#### ***Election/Restrictions***

Claims 26-33 are withdrawn from further consideration pursuant to 37 CFR  
1.142(b), as being drawn to a nonelected species, there being no allowable generic or  
linking claim. Applicant timely traversed the restriction (election) requirement in the reply  
filed on September 17, 2007.

Applicant's election with traverse of group I in the reply filed on September 17,  
2007 is acknowledged. The traversal is on the ground(s) that the technical features of  
claims 17-26 are in the same field and under PCT Rule 13.1 should be considered  
together. This is not found persuasive because although the species maybe in the  
same field, they lack the same or corresponding technical features as required under  
PCT Rule 13.2.

The requirement is still deemed proper and is therefore made FINAL.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which  
papers have been placed of record in the file.

#### ***Information Disclosure Statement***

The information disclosure statement filed on January 18, 2005 has been  
considered.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 17 is rejected under 35 U.S.C. 102(e) as being anticipated by Heller et al 6,769,254. Heller et al discloses a master cylinder unit (1), a slave cylinder unit (52), a hydraulic medium line (58, 59) connecting the master to the slave unit and a throttle valve (51) for adjusting a flow resistance between the cylinders.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 58142035 A. JP discloses a master cylinder unit (3), a slave cylinder unit (7), a hydraulic medium line (4, 5) connecting the master to the slave unit and a throttle valve (1) for adjusting a flow resistance between the cylinders.

Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Tischer et al 5,301,781. Tischer et al discloses a master cylinder unit (22), a slave cylinder unit (18), a hydraulic medium line (20) connecting the master to the slave unit and a throttle valve (37) for adjusting a flow resistance between the cylinders.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tischer et al in view of Jager et al 6,516,255. Tischer et al discloses an actuator (38) configured to actuate the throttle valve, but doesn't disclose the use of a piston sensor and control unit for controlling the actuator.

Jager et al discloses an actuation system for a clutch having an actuator (13b), a piston sensor (14) configured to detect movement of a piston (11a) of a cylinder unit (11) and a control unit (13) connected to the piston sensor for controlling the actuator.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the piston of the cylinders with a sensor and a control unit for controlling the actuator in Tischer et al in view of Jager et al to regulate the amount of torque flowing through the system.

#### ***Allowable Subject Matter***

Claims 19-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-DE 4435258A1.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 571-272-7093. The examiner can normally be reached on M-F 7:30 AM TO 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tdl  
December 9, 2007

  
TISHA LEWIS  
PRIMARY EXAMINER  
AU 3681 12/9/07